



PRESS RELEASE

Attorney General Frosh Sues Environmental Protection Agency for Limiting Enforcement of Federal Environmental and Public Health Laws

Coalition of Attorneys General Argue EPA's New Policy Ignores Critical Impacts of Non-Compliance on Public Health, Vulnerable Communities

BALTIMORE, MD (May 13, 2020) – Maryland Attorney General Brian E. Frosh today joined a coalition of nine attorneys general in filing a [lawsuit](#) against the Environmental Protection Agency (EPA) challenging its policy of not enforcing bedrock monitoring and reporting obligations under a wide range of federal environmental laws due to the COVID-19 pandemic.

The coalition argues that EPA's policy, the "Temporary Policy on COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program" (non-enforcement policy), is overly broad, lacks transparency, and will negatively impact public health and the environment.

"EPA is inviting industries to pollute our air and water. It is never a good time to back away from enforcing laws that protect the environment and public health. Doing so in the midst of this pandemic is particularly reckless," said Attorney General Frosh.

On March 26, 2020, EPA issued the non-enforcement policy, which applies retroactively to March 13, and has no end date. The policy states that EPA will not take civil enforcement action against companies that violate existing reporting and monitoring requirements under federal environmental laws like the Clean Air Act and Clean Water Act, provided that the companies later link COVID-19 to their non-compliance. The policy also makes it optional for parties to report their non-compliance to EPA, and to state and local agencies.

The coalition recognizes the immense challenges posed by the COVID-19 pandemic on regulated entities and the burden that responding to the crisis has placed on all levels of government. However, adopting an "across the board" non-enforcement policy without considering whether it will worsen harms to public health arbitrarily places regulatory relief above the pressing health concerns of affected communities. Further, as a number of states have themselves demonstrated, the agency could have pursued a reasonable policy that provides appropriate flexibility to businesses without waiving requirements that protect public health and the environment.

In the lawsuit, the coalition contends that EPA lacks legal authority to waive monitoring and reporting obligations that inform regulators and the public of pollution hazards. The lawsuit also alleges that EPA failed to consider the adverse impacts on public health that the policy will have

from withholding public notice of pollution levels during the COVID-19 pandemic. For example, without requiring regulated businesses to provide public notice of their non-compliance, communities bordering industrial facilities—often low income and minority communities—could be exposed to harmful pollution without warning. Increased air pollution and the failure to report this excess pollution could pose significant added dangers to individuals battling respiratory illnesses. This circumstance is made more troubling by EPA’s statement that it may waive enforcement even in situations where a polluter’s non-compliance presents an imminent threat to public health or the environment.

On April 15, a coalition of state attorneys general, including Attorney General Frosh, submitted a [letter](#) to EPA Administrator Andrew Wheeler urging the agency to withdraw the non-enforcement policy in favor of guidance that would protect communities from pollution during this public health crisis. EPA has neither responded to the letter nor taken any of the actions requested by the attorneys general.

Joining Attorney General Frosh in the lawsuit, filed today in the United States District Court for the Southern District of New York, are the attorneys general of California, Illinois, Michigan, Minnesota, New York, Oregon, Vermont, and Virginia.